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February 9, 2006

Marlene Dortch
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: MB Docket No. 05-311

Dear Secretary Dortch:

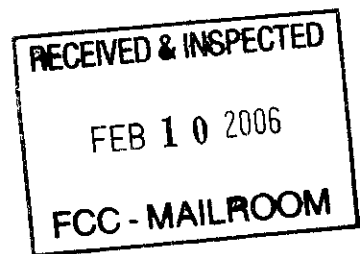
Please find enclosed one original and four copies of the joint comments of the New York State Conference of Mayors and Municipal Officials and the Association of Towns of the State of New York in the above referenced matter. Should the Commission require any further information in this matter please contact our offices.

Sincerely,

Peter A. Baynes
Executive Director

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554



In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

**COMMENTS OF THE NEW YORK STATE CONFERENCE OF MAYORS AND
MUNICIPAL OFFICIALS AND THE ASSOCIATION OF TOWNS OF THE STATE OF
NEW YORK**

These Comments are filed by the New York State Conference of Mayors and Municipal Officials ("NYCOM") and the Association of Towns of the State of New York ("Towns") in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, NYCOM and Towns believe that local governments are the level of government best suited to issue a franchise in a timely fashion for new entrants into the video services field, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the issues concerning video franchising with municipal governments in the State of New York.

NYCOM is a voluntary membership association whose membership includes 60 of the State's 62 cities and 517 of the State's 554 villages. NYCOM is an organization devoted to protecting and advocating the interests of cities and villages throughout New York State. NYCOM's mission is to "improve the administration of municipal affairs in New York State by providing courses of training for municipal officials in service in New York State cities and

villages.” Additionally, NYCOM provides its members with legislative advocacy at both the state and federal levels on issues of concern to local governments.

The Association of Towns of the State of New York was established in 1933 to help towns obtain greater economy and efficiency. The Association serves town governments by providing training and technical assistance, legal services, insurance programs and a variety of publications to member towns. It represents town governments by providing advocacy in Albany, monitoring legislation and regulatory action, lobbying and presenting initiatives solely on behalf of towns. The Association gains all of its revenue from dues and activities and receives no State or federal assistance.

Cable Franchising in New York

Historically, the majority of municipalities in New York have been served by a single cable service provider. In 2004, however, Verizon Communications, Inc. (“Verizon”) began a roll-out of a fiber-to the-premises (“FTTP”) system capable of providing cable services along with its more traditional phone services. The advent of this potential new cable service provider created a great deal of interest for many municipalities that had long been without a competitive option for cable service providers. As a result, both NYCOM and Towns were contacted by many of our members looking forward to true competition in the cable market. While this build-out process has not been without its problems, Verizon has already been granted its first franchise and has submitted two more tentative agreements to the New York State Public Service Commission (“PSC”) for review.

All franchise agreements between cable providers and municipal governments must be reviewed and approved by the PSC. In March of 2005, the PSC amended its rules governing the provision of cable television services to reflect the current, more competitive, environment. Two

provisions of these changes have in particular made it substantially easier for companies to enter into franchise agreements for cable services.

The first change involved the granting of a second or competitive franchise in a municipality. The PSC's prior rules required that any municipality considering granting a cable television franchise must first appoint a citizen's advisory committee, conduct a study resulting in a community needs assessment, issue a request for proposals and nationally advertise for interested companies. This potentially time consuming step has now been eliminated.

Provisions have also been added to the PSC's rules that provide a streamlined process for granting a second franchise to any company that agrees to the same terms and conditions of an existing franchise. This rule mandates that any second or competitive franchise, taken as a whole, must meet the same economic or regulatory burdens as the existing cable franchise, thereby placing the new entrant in approximately the same place as the existing franchiser but without going through an individually negotiated process. This expedited process takes a mere 30 days.

These new changes have made the entrance of a second cable provider into any municipal market significantly easier. While this option was available to Verizon in the aforementioned franchise process, the company chose to negotiate a new franchise with the individual municipality.

Conclusion

The local cable franchising process functions well in municipalities throughout New York State. Municipal governments are experienced at working with cable providers to see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account. Each municipality is unique with its own distinctive needs. As

a result, each municipal government is best suited to protect the health, safety and welfare of its own community while also bringing in new opportunities and industry. Municipalities in New York range from populations of less than 100 to more than eight million and encompass a variety of socio-economic levels and demographic characteristics, from big city to rural. As a result, one type of franchise could never fit them all. The current process of allowing all municipal governments to negotiate their own franchise agreement is imperative in order to guarantee a fair agreement that serves both the community and the cable industry.

Local cable franchising ensures that local cable operators are allowed access to the rights-of-way in a fair and evenhanded manner, that other users of the rights-of-way are not unduly inconvenienced, and that uses of the rights-of-way, including maintenance and upgrade of facilities, are undertaken in accordance with local requirements. Local cable franchising also ensures that a local community's specific needs are met and that local customers are protected.

Franchises provide a means for local governments to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable federal, state and local laws. Without this local authority, the public welfare and safety would be sacrificed in the name of the cable industry. There is no need to create a new Federal bureaucracy in Washington to handle these matters which are specifically of local interest.

Finally, local franchises allow each community to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as well as existing users.

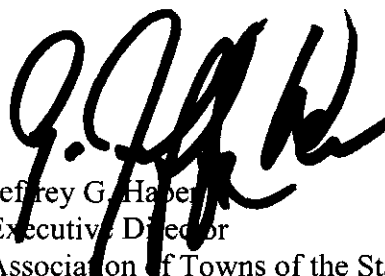
Based on the foregoing, as well as the evidence offered by local governments and other municipal organizations, both NYCOM and Towns respectfully request that the Commission

refrain from impairing the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. A. Baynes".

Peter A. Baynes
Executive Director
New York State Conference of Mayors and
Municipal Officials

A handwritten signature in black ink, appearing to read "J. G. Haber".

Jeffrey G. Haber
Executive Director
Association of Towns of the State of New York

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